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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,558	10/24/2003	Koji Watarai	4495-059	7512
22429	7590	08/29/2005	EXAMINER	
LOWE HAUPTMAN GILMAN AND BERNER, LLP 1700 DIAGONAL ROAD SUITE 300 /310 ALEXANDRIA, VA 22314			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,558

Applicant(s)

WATARAI ET AL.

Examiner

Akiba K. Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 4-8 is/are allowed.
- 6) ☒ Claim(s) 9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Status of Claims

1. Due to communications filed 6/2/05, the following is a non-final communication. Claims 2 and 3 have been cancelled. Claims 1, and 4-9 are pending in this application and have been examined on the merits. Claims 1 and 4-8 are allowed. Claim 9 is rejected as follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitations "said average-customer-equity tabulating means" in lines 1-11, "said total-customer-equity tabulating means" in line 12, "said means of tabulating the customer-stability ratio, in lines 30-31, and "said customer-equity growth-ratio tabulating means" in line 33. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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4. Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of :

(1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful art" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claim 9 is directed to a method of evaluating a company's customer equity. Claim 1 recites the steps of "receiving purchase records...", "determining a classification of individual-customer equity...", "counting the records in the master table of customers...", and "plotting the target of evaluation...", "counting only the number of customers...", "counting the number of ex-customers...", "calculating and recording the cumulative totals...", "counting the number of new customers...", "calculating and recording the cumulative totals...", "calculating and recording the ratios of new customers...", "classifying and ranking the targets....". These steps do produce a tangible result, however they represent mere ideas in the abstract since they do not recite computer software or hardware embedded on a tangible medium for processing

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the steps of this claim. Since no computer software or hardware embodied on a tangible medium is present in this claim, this claim is therefore found to be non-statutory.

Allowable Subject Matter

5. Claims 1, and 4-8 are allowed.

6. Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

7. The following is an examiner's statement of reasons for allowance. None of the prior art of record either individually or in combination teach the following:

- a first analytical matrix, in which are plotted said targets of evaluation after being ranked and assigned symbols according to a ranking classification, and in which said matrix the vertical axis represents the purchase amount per customer as tabulated and recorded by said average-customer-equity tabulating means, and the horizontal axis represents the total number of customers as tabulated and recorded by said total-customer-equity tabulating means.

- a second analytical matrix, in which the sales-improvement ratios of said targets of evaluation are classified into rankings of the targets of evaluation in terms of ratios of increase, stability, and decrease of sales before and after an evaluation period, and in which symbols are plotted according to rankings, and wherein the horizontal axis

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represents the ratio of retained customers, who are repeat customers as tabulated and recorded by said means of tabulating the customer-stability ratio, while the vertical axis represents the ratios of the number of new customers and their purchase amounts to the number of ex-customers and their purchase amounts as tabulated and recorded by said customer-equity growth-ratio tabulating means.

The present invention discloses a system for evaluating a company's customer equity. The first allowable feature of having a first analytical matrix, in which are plotted said targets of evaluation after being ranked and assigned symbols according to a ranking classification, and in which said matrix the vertical axis represents the purchase amount per customer as tabulated and recorded by said average-customer-equity tabulating means, and the horizontal axis represents the total number of customers as tabulated and recorded by said total-customer-equity tabulating means is not disclosed by any prior art reference. The closest prior art, Anderson (US 6,064,985) shows an automated portfolio management system and method that manages data in a database, and populates the database with data feed off the Internet. The next closest prior art, Thomas (3,865,380) discloses a stock market game where each trader has his own symbol for indicating his position on the game board and each trader must keep a record of his stock transactions to show his current operating capital. The next closest prior art, Horowitz (US 6,349,290) discloses an automated system and method for presenting both interactive and proactive customized and personalized advice for a customer by a financial institution based on a customer profile generated by the system.

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However, neither Anderson, Thomas nor Horowitz et al fail to disclose the feature of having a first analytical matrix, in which are plotted said targets of evaluation after being ranked and assigned symbols according to a ranking classification, and in which said matrix the vertical axis represents the purchase amount per customer as tabulated and recorded by said average-customer-equity tabulating means, and the horizontal axis represents the total number of customers as tabulated and recorded by said total-customer-equity tabulating means. This distinct feature has been added to independent claim 1, and renders it, and all claims that depend from it (claims 4-8) allowable.

The second allowable feature of a second analytical matrix, in which the sales-improvement ratios of said targets of evaluation are classified into rankings of the targets of evaluation in terms of ratios of increase, stability, and decrease of sales before and after an evaluation period, and in which symbols are plotted according to rankings, and wherein the horizontal axis represents the ratio of retained customers, who are repeat customers as tabulated and recorded by said means of tabulating the customer-stability ratio, while the vertical axis represents the ratios of the number of new customers and their purchase amounts to the number of ex-customers and their purchase amounts as tabulated and recorded by said customer-equity growth-ratio tabulating means. The closest prior art, Anderson (US 6,064,985) shows an automated portfolio management system and method that manages data in a database, and populates the database with data feed off the Internet. The next closest prior art, Thomas (3,865,380) discloses a stock market game where each trader has his own symbol for indicating his position on the game board and each trader must keep a

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record of his stock transactions to show his current operating capital. The next closest prior art, Horowitz (US 6,349,290) discloses an automated system and method for presenting both interactive and proactive customized and personalized advice for a customer by a financial institution based on a customer profile generated by the system. However, neither Anderson, Thomas nor Horowitz et al fail to disclose the feature of a second analytical matrix, in which the sales-improvement ratios of said targets of evaluation are classified into rankings of the targets of evaluation in terms of ratios of increase, stability, and decrease of sales before and after an evaluation period, and in which symbols are plotted according to rankings, and wherein the horizontal axis represents the ratio of retained customers, who are repeat customers as tabulated and recorded by said means of tabulating the customer-stability ratio, while the vertical axis represents the ratios of the number of new customers and their purchase amounts to the number of ex-customers and their purchase amounts as tabulated and recorded by said customer-equity growth-ratio tabulating means. This distinct feature has been added to independent claim 1, and renders it, and all claims that depend from it (claims 4-8) allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A.R.B.

A. R. B.

August 22, 2005

John W. Hayes
JOHN W. HAYES
PRIMARY EXAMINER